

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MARCH 16, 2010**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION TO ALLOCATE \$222,600 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO FUND THE SAN JERARDO INTERIM WATER TREATMENT SYSTEM (INTERIM SYSTEM)

DISCUSSION

The Monterey County Public Works Department (County) is requesting \$543,826 from the CAA to cover monthly operation costs, administration and demobilization costs for an Interim System in San Jerardo, Monterey County. The Interim System is to treat well water for contaminants of nitrates and 1,2,3 Trichloropropane that exceed the Maximum Contaminant Levels for those constituents. The community of San Jerardo has been under a bottled water order for drinking water since 2001. Residents have experienced rashes, sores, and hair loss due to skin contact with the well water upon bathing or showering. The community of San Jerardo is the first housing cooperative in California for low-income farm worker families. The California Department of Public Health listed San Jerardo as a severely disadvantaged community with the Median Household Income (MHI) being less than 60 percent of the statewide annual MHI. An Environmental Protection Agency lawsuit resulted in the San Jerardo water system to be placed under federal court receivership for violations of the federal Clean Water Act.

The Monterey County Board of Supervisors approved a plan to install an Interim System to address public health and safety concerns. The County contracted with the court appointed receiver to install and operate the Interim System. The receiver's engineer consulted with the County Environmental Health Department in the selected treatment. The Interim System has been ongoing since 2007. The federal court ordered partial reimbursement for the well system owner for filtration system installation and operating costs.

The County assumed the lead role in pursuing a permanent solution to this public health and safety issue. A new well will be constructed by August 2010. This deeper well will not require wellhead treatment.

In October 2009, the County requested \$543,826 from the CAA for:

1. Monthly operation and maintenance (O&M) costs of the Interim System, dating from April 2008 through August 2010, that were not reimbursed through court action at a cost of \$16,600 per month; and
2. The Interim System demobilization, engineering, and construction management, and administration and closeout costs for a total of \$40,000.

The CAA does not generally pay costs incurred prior to requests' approval and consideration. The CAA is a fund of last resort. If funds are available from other sources, and are already paid, the CAA should not be used as a reimbursement mechanism. As such, staff does not recommend that costs incurred prior to application should be considered.

The State Water Resources Control Board (State Water Board) does not generally pay O&M costs, as these are ongoing costs in all communities. The CAA cannot support ongoing costs with uncertain fine and penalty income to the CAA; the statewide demand for O&M would be far greater than the CAA. In this case, however, the special O&M costs associated with the interim treatment of contamination will end with the installation of a new deeper well. While the San Jerardo community was able to pay the costs up until the CAA application in October 2009, the community has struggled with the additional Interim System costs while waiting for a new well. The community can ill-afford this type of additional expense given their economic situation.

Considering the community's severely disadvantaged status, the limited term of the O&M and the expected remedy for the water supply problem, staff is recommending partial funding of the request. The State Water Board's staff recommends funding costs for:

1. The O&M of the Interim System from the date the request for funds was received (October 2009) through August 2010 for \$182,600; and
2. The Interim System demobilization, engineering, and construction management, and administration and closeout costs for \$40,000. In total, the recommended funding amount is \$222,600.

The requested allocation is consistent with the purposes of Water Code Section 13442. Section 13442 provides that the State Water Board may order moneys to be paid from the CAA to a public agency with authority to cleanup or abate the effects of a waste in order "to assist it in cleaning up the waste or abating its effects on the waters of the state."

POLICY ISSUE

Should the State Water Board approve funding the Interim System for \$222,600 from the CAA?

FISCAL IMPACT

As of September 3, 2009, the uncommitted CAA balance is estimated to be no less than \$7 million according to the most current data.

REGIONAL BOARD IMPACT

No.

STAFF RECOMMENDATION

The State Water Board approves funding the Interim System for \$222,600 from the CAA.

State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Strategic Plan Update: 2008-2012, to comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-

ALLOCATE \$222,600 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO FUND THE SAN JERARDO INTERIM WATER TREATMENT SYSTEM (INTERIM SYSTEM)

WHEREAS:

1. The Monterey County Public Works Department (County) is requesting \$543,826 from the CAA to cover monthly costs to operate the Interim System in San Jerardo, Monterey County. The Interim System is to treat the well water for contaminants of nitrates and 1,2,3 Trichloropropane that exceed the Maximum Contaminant Levels for those constituents;
2. The community of San Jerardo has been under a bottled water order for drinking water since 2001. The residents have experienced rashes, sores, and hair loss due to skin contact with the well water upon bathing or showering. The community of San Jerardo is the first housing cooperative in California for low-income farm worker families. The California Department of Public Health listed San Jerardo as a severely disadvantaged community with the Median Household Income (MHI) being less than 60 percent of the statewide annual MHI. An Environmental Protection Agency lawsuit resulted in the San Jerardo water system to be placed under federal court receivership for violations of the federal Clean Water Act;
3. The County contracted with the court appointed receiver to install and operate the Interim System. The receiver's engineer, in consultation with the County Environmental Health Department, selected the Interim System and the County assumed the lead role in pursuing a permanent solution to this public health and safety issue. The federal court ordered partial reimbursement for the Interim System owner for filtration system installation and operating costs;
4. In October 2009, the County requested \$543,826 from the CAA for:
 - Monthly operation and maintenance (O&M) costs of the Interim System, dating from April 2008 through August 2010, that were not reimbursed through court action at a cost of \$16,600 per month; and
 - The Interim System demobilization, engineering, and construction management, and administration and closeout costs for a total of \$40,000;
5. The CAA does not generally pay costs incurred prior to requests' approval and consideration. The CAA is a fund of last resort. If funds are available from other sources, and are already paid, the CAA should not be used as a reimbursement mechanism. As such, staff does not recommend that costs incurred prior to application should be considered;

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6. The State Water Resources Control Board (State Water Board) does not generally pay O&M costs, as these are ongoing costs in all communities. The CAA cannot support ongoing costs with uncertain fine and penalty income to the CAA; the statewide demand for O&M would be far greater than the CAA. In this case, however, the special O&M costs associated with the interim treatment of contamination will end with the installation of a new deeper well. While the San Jerardo community was able to pay the costs up until the CAA application in October 2009, the community has struggled with the additional Interim System costs while waiting for a new well. The community can ill-afford this type of additional expense given their economic situation;
7. Considering the community's severely disadvantaged status, the limited term of the O&M and the expected remedy for the water supply problem, staff is recommending partial funding of the request. The State Water Board's staff recommends funding costs for:
 - The O&M of the Interim System from the date the request for funds was received (October 2009) through August 2010 for \$182,600; and
 - The Interim System demobilization, engineering, and construction management, and administration and closeout costs for \$40,000. In total, the recommended funding amount is \$222,600; and
8. The requested allocation is consistent with the purposes of Water Code Section 13442. Section 13442 provides that the State Water Board may order moneys to be paid from the CAA to a public agency with authority to cleanup or abate the effects of a waste "to assist it in cleaning up the waste or abating its effects on the waters of the state."

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves funding \$222,600 from the CAA to Monterey County for the Interim System; and
2. Shall revert to the CAA any unexpended funds as of June 20, 2012, unless the Deputy Director or Assistant Deputy Director of the Division of Financial Assistance authorizes an extension. The funds will be available until June 30, 2012.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on March 16, 2010.

Jeanine Townsend
Clerk to the Board